



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG 10 2011

Dave Gilliard  
Gilliard Blanning & Associates, Inc.  
5701 Lonetree Blvd #301  
Rocklin, CA 95765

RE: MURs 6289, 6362

Dear Mr. Gilliard:

On September 1, 2010, the Federal Election Commission notified you and Gilliard Blanning & Associates, Inc., ("GBA") of a complaint designated as MUR 6362, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On August 2, 2011, the Commission merged MUR 6289 into MUR 6362 and found, on the basis of the information obtained by the Commission, that there is no reason to believe that you and GBA violated any provisions of the Act or Commission regulations in connection with the allegations in these matters. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analyses, which explain the Commission's no reason to believe findings, are enclosed for your information.

If you have any questions, please contact Dominique DiLenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Peter G. Blumberg  
Assistant General Counsel

Enclosures  
Factual and Legal Analyses

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: David Gilliard**

**MUR: 6362**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Tal Cloud and Mike Der Manuel, Jr. See 2 U.S.C. § 437g(a)(1).

The complaint alleged that advertisements for a May 28, 2010 benefit concert for the Remembering the Brave Foundation ("RB") featured Jeff Denham, a California State Senator and a candidate in the primary election for the 19<sup>th</sup> Congressional District in California, and were disseminated within 30 days of the California Congressional primary election on June 8, 2010. These ads were allegedly financed from funds Denham transferred from Jeff Denham for State Senate ("State Committee") to RB. The concert was held at the Chukchansi Gold Resort & Casino. The complaint further alleged that the advertisements were coordinated with Denham for Congress ("Federal Committee") and that the coordination involved David Gilliard and Gilliard Blanning & Associates, Inc. ("GBA"), the media buyer working for both RB and the Denham Federal Committee. The complaint also alleged that David Gilliard failed to disclose coordinated communications and independent expenditures made in connection with the benefit concert and/or Denham's Federal Committee, and may have done so to hide the true source of the funding.

As explained below, the Commission found no reason to believe that David Gilliard violated any provisions of the Federal Election Campaign Act of 1971, as amended, ("the Act") or Commission regulations in connection with the allegations in this matter.

1    **II.    FACTUAL AND LEGAL ANALYSIS**

2            **A. Factual Background**

3            In 2010, Jeff Denham was both a California State Senator, representing the 12<sup>th</sup> District,  
4    and a candidate for the U.S. House of Representatives for California's 19<sup>th</sup> Congressional  
5    District. Denham did not run for re-election to the State Senate. Denham won the June 8, 2010,  
6    Republican primary and the November 2, 2010, general election.

7            Eleven days before the June 8 primary, a benefit concert was held at the Chukchansi Gold  
8    Resort & Casino, in Coarsegold, California, which is in the 19<sup>th</sup> Congressional District. The  
9    concert, sponsored by RB featuring country and western music performer Phil Vassar, was  
10    advertised on radio, television, and the internet as a benefit concert to raise donations for Project  
11    Gold Star—a program administered by the California Department of Veteran Affairs to raise  
12    private donations to pay the costs of a specialized license plate program for the families of U.S.  
13    military personnel killed while serving on active duty. Several of the advertisements promoting  
14    the concert featured Denham.

15           David Gilliard appears to be a partner and founder of GBA, a campaign consulting firm  
16    and vendor for the Denham campaign, that appears to have purchased advertising for both the  
17    Denham campaign and the benefit concert. Documentation submitted with the complaint  
18    indicates that GBA handled the media buy for the concert on behalf of its client, RB. See Emails  
19    between Genet Slagle (media buyer with GBA) to Matt Rosenfeld (President/General Manager  
20    for KSEE-NBC24, KSEE Weather Plus, and LATV la alternativo), dated April 29, 2010,  
21    regarding Gold Star Families Proposal. It also appears that GBA handled the media buys for the  
22    Denham for Congress campaign in 2010.<sup>1</sup> See Emails from Genet Slagle to Donald Osika, dated

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<sup>1</sup> The Denham Federal Committee's 2010 April Quarterly Report reflects disbursements to GBA for broadcast advertising.

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1 January 29, 2010. Other than this information indicating that GBA performed media buyer work  
2 for both RB and the Denham Federal Committee, the complaint does not include specific  
3 allegations regarding which communications were coordinated or what coordination David  
4 Gilliard undertook. The complaint does not identify any specific unreported independent  
5 expenditures that David Gilliard allegedly made on behalf of Denham's Federal Committee.  
6 David Gilliard did not file a response to the complaint.

7 **B. Coordinated Communications/Independent Expenditures**

8 The Act subjects contributions and expenditures to certain restrictions, limitations, and  
9 reporting requirements. *See generally* 2 U.S.C. §§ 441a, 434b. Contributions can be monetary  
10 or "in-kind." In-kind contributions include an expenditure made by any person "in cooperation,  
11 consultation, or concert with, or at the request or suggestion of, a candidate, his authorized  
12 political committees, or their agents," and are subject to the same restrictions and reporting  
13 requirements as other contributions. 2 U.S.C. § 441a(a)(7)(A) and (B)(i); 11 C.F.R.  
14 §§ 100.52(d)(1), 109.21(b). The Commission's regulations at 11 C.F.R. § 109.21 provide that  
15 coordinated communications constitute in-kind contributions from the party paying for such  
16 communications to the candidate, the candidate's authorized committee, or the political party  
17 committee which coordinates the communication. A cooperation is prohibited from making any  
18 contribution in connection with a Federal election. 2 U.S.C. § 441b(a).

19 A communication is coordinated if it is paid for by someone other than the candidate or  
20 the candidate's authorized committee (or the political party committee, where applicable); it  
21 satisfies one or more content standards; and it satisfies one or more conduct standards. All three  
22 prongs must be met for a communication to be considered coordinated. 11 C.F.R. § 109.21.

1           An independent expenditure is an expenditure for a communication which expressly  
2 advocates the election or defeat of a clearly identified candidate and which is not made in  
3 cooperation, consultation or concert with, or at the request or suggestion of, any candidate,  
4 candidate's committee, party committee or their agents. 11 C.F.R. § 100.16.

5           The complaint makes general allegations that David Gilliard made undisclosed  
6 coordinated communications and/or independent expenditures in connection with the concert  
7 and/or the Denham Federal Committee. However, the complaint did not provide any  
8 information to support these allegations. The complaint does not identify specific  
9 communications that it alleges to have been coordinated by David Gilliard nor any specific  
10 unreported independent expenditures Gilliard allegedly made on behalf of Denham's Federal  
11 Committee.

12           **C. Conclusion**

13           The complaint did not provide any information suggesting that David Gilliard made  
14 undisclosed coordinated communications and/or independent expenditures in connection with  
15 the concert and/or the Denham campaign. Accordingly, the Commission finds no reason to  
16 believe that David Gilliard violated any provisions of the Act or Commission regulations in  
17 connection with the allegations in this matter.

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT: Gilliard Blanning & Associates**

**MUR: 6362**

6 **I. INTRODUCTION**

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8 Tal Cloud and Mike Der Manouel, Jr. See 2 U.S.C. § 437g(a)(1).

9 The complaint alleged that advertisements for a May 28, 2010, benefit concert for the  
10 Remembering the Brave Foundation ("RB") featured Jeff Denham, a California State Senator  
11 and a candidate in the primary election for the 19<sup>th</sup> Congressional District in California, and were  
12 disseminated within 30 days of the California Congressional primary election on June 8, 2010.  
13 These ads were allegedly financed from funds Denham transferred from Jeff Denham for State  
14 Senate ("State Committee") to RB. The concert was held at the Chukchansi Gold Resort &  
15 Casino. The complaint further alleged that the ads were coordinated with Denham for Congress  
16 ("Federal Committee") and that the coordination involved Gilliard Blanning & Associates, Inc.  
17 ("GBA"), the media buyer working for both RB and the Denham Federal Committee. The  
18 complaint also alleged that GBA failed to disclose coordinated communications and independent  
19 expenditures made in connection with the benefit concert and/or Denham's Federal Committee,  
20 and may have done so to hide the true source of the funding.

21 As explained below, the Commission found no reason to believe that GBA violated any  
22 provisions of the Federal Election Campaign Act of 1971, as amended, ("the Act") or  
23 Commission regulations in connection with the allegations in this matter.  
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**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

In 2010, Jeff Denham was both a California State Senator, representing the 12<sup>th</sup> District, and a candidate for the U.S. House of Representatives for California's 19<sup>th</sup> Congressional District. Denham did not run for re-election to the State Senate. Denham won the June 8, 2010, Republican primary and the November 2, 2010, general election.

Eleven days before the June 8 primary, a benefit concert was held at the Chukchansi Gold Resort & Casino, in Coarsegold, California, which is in the 19<sup>th</sup> Congressional District. The concert, sponsored by RB and featuring country and western music performer Phil Vassar, was advertised on radio, television, and the internet as a benefit concert to raise donations for Project Gold Star—a program administered by the California Department of Veteran Affairs to raise private donations to pay the costs of a specialized license plate program for the families of U.S. military personnel killed while serving on active duty. Several of the advertisements promoting the concert featured Denham.

GBA is a campaign consulting firm and vendor for the Denham campaign that appears to have purchased advertising for both the Denham campaign and the benefit. Documentation submitted with the complaint indicates that GBA handled the media buy for the concert on behalf of its client, RB. See Emails between Genet Slagle (media buyer with GBA) to Matt Rosenfeld (President/General Manager for KSEE-NBC24, KSEE Weather Plus, and LATV la alternativo), dated April 29, 2010, regarding Gold Star Families Proposal. It also appears that GBA handled the media buys for the Denham for Congress campaign in 2010.<sup>1</sup> See Emails from Genet Slagle to Donald Osika, dated January 29, 2010. Other than this information indicating

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<sup>1</sup> The Denham Federal Committee's 2010 April Quarterly Report reflects disbursements to GBA for broadcast advertising.

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1 that GBA performed media buyer work for both RB and the Denham Federal Committee, the  
2 complaint does not include specific allegations regarding which communications were  
3 coordinated or what coordination GBA undertook. The complaint does not indicate any specific  
4 unreported independent expenditures that GBA allegedly made on behalf of the Denham Federal  
5 Committee. GBA did not file a response to the complaint.

6 **B. Coordinated Communications/Independent Expenditures**

7 The Act subjects contributions and expenditures to certain restrictions, limitations, and  
8 reporting requirements. *Sec generally* 2 U.S.C. §§ 441a, 434b. Contributions can be monetary  
9 or "in-kind." In-kind contributions include an expenditure made by any person "in cooperation,  
10 consultation, or concert with, or at the request or suggestion of, a candidate, his authorized  
11 political committees, or their agents," and are subject to the same restrictions and reporting  
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14 coordinated communications constitute in-kind contributions from the party paying for such  
15 communications to the candidate, the candidate's authorized committee, or the political party  
16 committee which coordinates the communication. A corporation is prohibited from making any  
17 contribution in connection with a Federal election. 2 U.S.C. § 441b(a).

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19 the candidate's authorized committee (or the political party committee, where applicable); it  
20 satisfies one or more content standards; and it satisfies one or more conduct standards. All three  
21 prongs must be met for a communication to be considered coordinated. 11 C.F.R. § 109.21.

22 An independent expenditure is an expenditure for a communication which expressly  
23 advocates the election or defeat of a clearly identified candidate and which is not made in

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1 cooperation, consultation or concert with, or at the request or suggestion of, any candidate,  
2 candidate's committee, party committee or their agents. 11 C.F.R. § 100.16.

3 The complaint makes general allegations that GBA made undisclosed coordinated  
4 communications and/or independent expenditures in connection with the concert and/or the  
5 Denham Federal Committee. However, complainants did not provide any information to support  
6 these allegations. The complaint does not identify specific communications that it alleges to  
7 have been coordinated by GBA, nor any specific unreported independent expenditures GBA  
8 allegedly made on behalf of the Denham's Federal Committee.

9 **C. Conclusion**

10 The complaint did not provide any information suggesting that GBA made undisclosed  
11 coordinated communications and/or independent expenditures in connection with the concert  
12 and/or the Denham campaign. Accordingly, the Commission finds no reason to believe that  
13 Gilliard Blanning & Associates violated any provisions of the Act or Commission regulations in  
14 connection with the allegations in this matter.